

SUPREME COURT DECISIONS.

Fourteen of Them Were Rendered Yesterday Afternoon.

THE BEAR RIVER CANAL CASE

Nine Thousand Dollars Damage in the Hanneman-Karrick Partnership.

Tintic Iron Company Not Negligent—Against the Oregon Short Line—Rio Grande Western Must Pay Frank Leas for the Loss of His Leg.

The supreme court met at 2 o'clock yesterday afternoon, instead of at 10 a. m., as was intended. It was 2:30 before the judges got down to business, but when they did get under way they dispensed justice in the shape of deferred opinions at a 2:10 halt. All the judges were present, viz: Chief Justice Kane, Associate Justices Miner, Smith and Baruch.

Opinions were rendered in the following cases:

ASSIGNMENT IS VOID.

John O. Smith et al. vs. A. F. Sippier et al. appellants, appeal from the Third district court. The judgment of the lower court was affirmed. Costs to the respondent. Judge Smith delivered the opinion. Judges Baruch and Miner concurring. The facts in the case were, that Sippier & Co. made an assignment listing certain individuals as preferred creditors, to-wit: Mrs. Sippier and Mrs. E. J. Walling, wife and aunt of A. F. Sippier. The court below declared that the assignment was void, and that decision was affirmed.

THERE WAS NO NEGLIGENCE.

Samuel Bennett, plaintiff and respondent, vs. The Tintic Iron Company, defendants and appellants. This was an appeal from a judgment in favor of the plaintiff for \$5,000 damages for personal injury sustained by him while in the employ of the defendant, caused by the negligence of the defendant. Judgment reversed on the ground that there was no negligence shown. Justice Smith delivered the opinion, Kane and Miner concurring.

THE INNOCENT THIRD PARTY.

John H. Voorhees vs. Jennie A. Fisher, appellant. This was an action to recover \$1,000 and interest on a promissory note, payable to Will R. Swan, and judgment was rendered by the district court in favor of the plaintiff for \$1,215, on the ground that although at the time the note was made there was no mortgage on the property for the purchase money of which the note was made and of which mortgage the defendant was ignorant, and she was compelled to redeem the property, the holder was an innocent third party. Judgment was affirmed by Judge Baruch, Kane and Smith concurring.

DAMAGES AFFIRMED.

George Everett vs. the Oregon Short Line & Utah Northern railway appellants. Judge Baruch delivered the opinion. The plaintiff in this case claimed damages for personal injuries received while a passenger on defendant's train at North Salt Lake and the jury found for the plaintiff in the sum of \$4,500. The plaintiff was an employee of the company and at the time the accident occurred was traveling in the caboose of the train, having paid his fare therefor. The accident was caused by a collision. The judgment was affirmed, Judge Miner concurring.

NEW TRIAL GRANTED.

Geo. H. Tansy and A. E. De Riques, appellants vs. Geo. A. Elzel, David E. Moore, John G. Wheeler and Joseph Armstrong, appellees. This was an appeal from the Third district court. The action arose upon a verbal contract in regard to the North Star mine. The jury returned a verdict in favor of the plaintiff in the sum of \$2,000. The district court granted defendant a new trial, from which order the plaintiff appealed. The order of the Third district court was affirmed by Judge Baruch, Kane and Smith concurring.

FOR THE LOSS OF A LEG.

Frank Leas vs. the Rio Grande Western Railway company, appellant. In this case the plaintiff was a teamster hauling ore from the mines at Bingham canyon and loading it on cars provided by the defendant at Bingham. That by the breaking loose of five cars and their running down an incline his wagon was run into, and smashed up, and he so injured that it was necessary to amputate his leg above the knee. The plaintiff received a judgment in the court below for \$3,570. Defendant made a motion for a new trial, which was overruled on condition that \$4,000 be remitted from the judgment, which was done. Thereupon the defendant appealed from the judgment and from the order denying defendant's motion for a new trial. Judge Miner affirmed the judgment of the court below, Judges Baruch and Smith concurring.

THE BEAR LAKE CANAL CASE.

William Garland, appellant, vs. the Bear Lake and River Waterworks and Irrigation company and the Jarvis, Conklin, Morgan and Trust company and Corey Brothers & Co., respondents. Suit was originally brought to recover for work done as contractor for the canal company and payment was given in favor of Garland for \$81,335. The plaintiff, according to the estimates of the company's engineer, and disallowed his claim for work in excess of the estimates. A decree was also rendered for Garland against the water and irrigation company for \$23,000 and a decree against Garland for a similar amount in favor of the contractors. Judge Kane affirmed the decision of the court below, Judge Baruch concurring.

INJUNCTION SHOULD HAVE BEEN GRANTED.

Martha Ann Combs, appellant, vs. Salt Lake & Fort Dodge Railway company. The Third district court granted a decree for \$3,999.50 as damage caused to the plaintiff's property on U street, by the construction of said company's track, but denied the injunction prayed for, hence the appeal. The court held that the court below erred in not granting the injunction, and reversed the judgment and remanded the case. Judge Kane delivered the opinion, and Miner and Smith concurred.

ATTORNEYS TAKE NOTICE.

W. S. Henderson vs. Charles W. Higgins, appellant. This was an appeal from a judgment for \$248.45 from a commissioner's court. The plaintiff had perfected his appeal to the Third district court, but had failed to pay the docket fee within the time required by the rules of the court, and the case was dismissed. In deciding, Judge Baruch said: "This court has repeatedly held that the rules of the district court are binding upon parties to the action. It is not sufficient excuse to say that effect that attorneys are not familiar with them. It is their business to know them. Judgment is affirmed." Smith and Miner concurred.

A PARTNERSHIP DISPUTE.

Charles L. Hanneman vs. L. C. Karrick et al., appellants, from the Third district court; opinion by Associate Justice Baruch. In this case the plaintiff alleged that he and the defendant entered into partnership to carry on a general mercantile business in this city on Feb. 3, 1886, and the business was continued until 1888, when the defendant took exclusive possession of the partnership books and stock and excluded plaintiff from the premises. The plaintiff further alleged that he was at all times ready and willing to perform his part of the partnership agreement and that the profits of the business for the two years' duration of the partnership was \$15,000. Judgment was demanded for \$30,000 for damages and that the partnership be dissolved. It appeared from the contract between the

parties that Hanneman had no capital of his own but was loaned \$5,000 by Karrick.

The defendant in his answer denied all the material allegations and demanded judgment against Hanneman for \$7,000 which he alleged Hanneman owed him. The action was tried in the first instance before S. A. Morris as referee who found for the plaintiff in the sum of \$12,040.53 which was affirmed by the Third district court and the defendant appealed. Judge Baruch rendered judgment for \$9,000.53 with which modification the ruling of the lower court was confirmed. Justice Miner concurring.

MUST PAY FOR HIS CLOTHES.

Joseph Baumgarten vs. Frank Hoffmann appellant; appeal from the Third district court. The judgment of the lower court for \$20 in favor of plaintiff, alleged to be due for a suit of clothes, was affirmed. Justice Miner delivered the opinion and Baruch and Smith concurred.

COMPENSATION FOR STOCK KILLED.

Ira D. Wines vs. Rio Grande Western Railway company appellant, from the First district court. The judgment in favor of the plaintiff for \$32.09 for stock killed by defendant's trains was affirmed. Justice Miner delivered the opinion in the court and the entire bench concurred, the case having been decided by Justice Blackburn.

NOT EARLY ENOUGH.

American Publishing company appellant, vs. the C. E. Mayne company, from the Fourth district court. Judgment of the lower court sustaining defendant's objection to a deposition offered by plaintiffs was reversed on the ground that the objection should have been interposed at an earlier date. Chief Justice Kane delivered the opinion, Baruch and Smith concurring.

DECISION AFFIRMED.

W. L. Coffin vs. James T. McIntosh, appellant from the Fourth district court. In this case Justice Baruch affirmed the decision of the lower court in favor of the plaintiff for \$310, Kane and Smith concurring.

Minor Matters.

In the case of Frank Leas vs. the Rio Grande Western Railway company, appellant, the bond on writ of error to the supreme court was fixed at \$30,000.

Simon J. Lonsorgan et al., appellants, vs. M. B. Buford et al.; clerk ordered to issue writ of error to the supreme court on a mandate from the Supreme Court of the United States affirming the decision of the territorial supreme court.

William Garland vs. the Bear Lake and River Waterworks and Irrigation company et al.; appeal prayed to the United States Supreme Court upon the fixing of a bond.

In the case of George C. Whitmore a writ of habeas corpus was issued and made returnable at 11 a. m. today.

J. W. Cherry and George W. Armstrong were admitted to practice in the supreme court.

Judgments Entered.

Justice Gee rendered decision for the plaintiff in the case of S. J. Kenyon vs. Steele & Company et al. in the sum of \$291.85 and \$9.25 costs.

Justice Baruch rendered decision for the plaintiff in the case of the plaintiff vs. defendant in the sum of \$12,040.53.

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